

a majority of Californians who supported it—when she took the majority position of the voters in her State, she had no idea she was going to see her business ravaged by those discovering her name on that list who would go after her.

They have a right not to eat at her restaurant, I understand that. But this is a real-life example of what can happen to people in controversial situations and the ACLU is appropriately concerned about.

The DISCLOSE Act, in the name of transparency, would expose small donors to that kind of retaliation. However, if you belong to a union, and you pay union dues, and the union dues are spent to produce a movie, something along the lines of what Michael Moore did with “Fahrenheit 9/11,” no one will ever know your union dues were spent for that purpose, because unions are treated differently than corporations.

This is a bad bill. It hasn't been through the committee. I am the ranking member of the Rules Committee to which the bill normally would be referred. The majority leader, exercising his authority, saw to it that the bill didn't get referred to committee. There have been no hearings. There is no opportunity for anybody to come forward and say this will be a problem. We haven't heard from the ACLU and a witness that we could question. We only got a letter, because they were shut out from any hearings.

For those who are offended by my reference to the ACLU and would prefer the National Right to Life Organization, well, we have their letter, too, but we didn't have an opportunity to hear any of their witnesses or the legal authorities who believe that the Supreme Court ruled correctly, who might have come before the committee and given us the benefit of their analysis; we haven't had a chance to hear from them either.

The bill has been drafted and redrafted a number of times behind closed doors, but we only see the final draft when it gets here on the floor, with no hearings, no background, no opportunity to question, comment, amend, or improve. I am in favor of transparency as much as the next Senator. I am in favor of free speech as much as anyone. I have stood on this floor and quoted James Madison with respect to free speech on a number of issues and have been dismissed on the grounds that, well, anybody can quote James Madison. I believe in the tenth Federalist, where Madison made it very clear that the right of factions to express themselves freely and openly, even when they clash bitterly, is a very fundamental right in the Constitution itself. “Factions,” as they used the word in Madison's day, referred to political parties. I think the term “factions” also refers to those whom we speak of as special interest groups today. James Madison made it very clear that if we attempt to stifle the ability of a faction to express itself, we

strike at the core of liberty itself. I hope that people don't interpret that as over-the-top language, as I have heard some other things that I have interpreted as over-the-top language. I sincerely believe that and I strongly support it.

The DISCLOSE Act would not pass the test of truth in advertising. The title does not disclose what it does here. It is filled with prohibitions and violations of the first amendment, and it is filled with special favors for certain groups and attacks on others. For that reason, I will oppose cloture and, if cloture is invoked, I will oppose the bill.

Mr. SCHUMER. Mr. President, I yield 5 minutes to the Senator from New Jersey, who has been an outstanding leader on this issue.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I have listened to my colleagues in this debate, and I am reminded of a great Republican, President Reagan, who said, “There they go again.” I always find it incredibly interesting when some of my most conservative colleagues quote the ACLU. Then I know something is amiss. Let me ask, what is the vote that is going to take place? It is simply to allow us to go forward and have a debate, offer amendments, and ultimately vote on the bill. That is what this bill is all about. So those who say they are for transparency won't even let a process move forward that is transparent, so we can debate and so that the American people can decide do we want corporations—including foreign corporations—to have access to who is elected in America, in this body and in the Congress, and ultimately making decisions that affect their lives every day?

That is what this vote is all about. You can paint it any way you want, but that is what this vote is about. I am amazed they cannot even say yes to proceeding to a debate and a vote on the merits of the bill itself.

We all know that the Roberts Supreme Court and its activist conservative majority overruled, wrongly in my view, restrictions on spending by corporations and unions. My colleagues on the other side are well aware that, as a result of a perceived loophole in current law, foreign corporations—those from other countries—would now be allowed to fund American election campaigns, to pick their candidates who would reflect their interests if elected or defeat candidates who would not reflect their interests—all without any meaningful mechanism or disclosure. Amazing. It is absurd. Nothing could be more ill advised or misguided. But here we are, once again, unable to even proceed to consider a bill that would remedy that situation. Once again, my Republican friends are standing in the way of proceeding to a bill, standing in the way of what I consider to be good governance, all in the name of those in their party who hold

to some misguided attempt to twist first amendment rights to suit an ideologically based argument that somehow a requirement to disclose contributions would violate the first amendment. You still can spend the money; nobody is going to stop you from spending the money. But you have to disclose who is behind that contribution. I don't think transparency is something that violates the first amendment. It is the right of the American people to receive the information required by these proposed disclosure laws.

Then they twist it even further, virtually saying that all money anywhere—even foreign money—is somehow free speech in American elections. I think the American people want to be the ones in control of who they elect to Congress to decide the issues of the day in their lives, not somebody who is backed by some foreign corporation. Imagine if BP could say: I don't like Senator MENENDEZ lifting that liability cap; I don't want to be liable for more than \$75 million, even though I have created billions of dollars in costs, so let me fund candidates who agree that Senator MENENDEZ's legislation to lift the liability caps on limited liability should be the ones to get elected, because they are going to take care of what? BP, which is a foreign corporation.

Imagine if the insurance industry said: We don't even have to put our face on that announcement, that advertisement. Let's go fund those candidates who will allow us, the insurance industry, to continue to deny people who have a preexisting condition in this country the opportunity to get health insurance—where a child at birth has a defect and cannot get health insurance, or a father who had a heart attack on the job cannot get health insurance. Let's fund those candidates who will ensure that we as an industry don't have to insure those individuals.

Imagine those companies on Wall Street which don't like the new law that we just passed and want to see it rolled back so they can continue to have the excesses that almost brought this Nation to economic collapse. They could say: Let's fund those candidates who will allow us to have not a free market but a free-for-all market. That is what this law is all about. That is what this vote is all about. I believe the people of New Jersey, which I represent, and people elsewhere, want disclosure.

Finally, disclosure takes place by knowing who is giving this money.

The bottom line is I want Americans to decide American elections. I don't want some foreign company funding candidates who ultimately enhance their views. I don't want big business deciding elections on the basis of their corporate interests versus the interests of the people. That is what this bill is all about. I can't understand the fear my colleagues on the other side of the